

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE**
3 **WESTERN DISTRICT OF PENNSYLVANIA**

4 BOB BROOKS,)

5 Plaintiff)

6 v.)

7 DIRECTV, LLC,)

8 Defendant)
9 _____)

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

10
11 **COMPLAINT**

12 BOB BROOKS (“Plaintiff”), by and through his attorneys, KIMMEL &
13 SILVERMAN, P.C., alleges the following against DIRECTV, LLC (“Defendant”):

14 **INTRODUCTION**

15
16 1. Plaintiff’s Complaint is based on the Telephone Consumer Protection
17 Act (“TCPA”), 47 U.S.C. § 227 *et seq.*

18 **JURISDICTION AND VENUE**

19
20 2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See
21 Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

22 3. Defendant conducts business in the Commonwealth of Pennsylvania
23 and as such, personal jurisdiction is established.

24 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).
25

PARTIES

5. Plaintiff is a natural person residing New Kensington, Pennsylvania 15068.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a corporation that has its office located at 2260 East Imperial Highway, El Segundo, California 90245.

8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number that he has had for more than one year.

11. Plaintiff has only used this number as a cellular telephone number.

12. The phone number has been assigned to a cellular telephone service for which Plaintiff pays to receive incoming calls.

13. Beginning in or around January 2015, and continuing through February 2015, Defendant called Plaintiff on his cellular telephone.

1 14. When contacting Plaintiff on his cellular telephone, Defendant would
2 place calls, as well as, send text messages.

3 15. Also, when contacting Plaintiff on his cellular telephone, Defendant
4 used an automatic telephone dialing system and automated and/or pre-recorded
5 messages.
6

7 16. Defendant's telephone calls were not made for "emergency purposes."

8 17. While Plaintiff has an account with Defendant, he revoked consent to
9 call his cellular telephone in January 2015, which was acknowledged in writing on
10 January 16, 2015, from a "Sara S" a representative of Defendant. See Exhibit A,
11 the January 16, 2015, email.
12

13 18. Defendant told Plaintiff that the process of placing his cellular number
14 on the "Do Not Call" list could take up to ten (10) business days. See Exhibit A.
15

16 19. Plaintiff continued to receive calls from Defendant after the allotted
17 ten (10) business days.

18 20. Again, on or about February 7, 2015, Plaintiff contacted Defendant to
19 tell them to stop calling, and in response, Defendant falsely claimed that it had
20 added his number to its "Do Not Call" list. See Exhibit B, the February 7, 2015,
21 email.
22

23 21. Nevertheless, Defendant continued to call Plaintiff's cellular telephone
24 number.
25

1 22. For example, Defendant called Plaintiff's cellular telephone on:
2 February 10, 2015, at 2:07 p.m.; February 13, 2015, at 1:14 p.m.; February 14,
3 2015, at 9:05 a.m.; February 15, 2015, at 10:57 a.m. and 5:49 p.m.; February 16,
4 2015, at 8:35 a.m., 11:05 a.m., 2:44 p.m., and 6:34 p.m.; February 17, 2015, 8:35
5 a.m., 11:53 a.m., 2:36 p.m. and 8:18 p.m.; February 19, 2015, 8:29 a.m., 10:59
6 a.m., 2:21 p.m., and 7:34 p.m.; February 20, 2015, 8:28 a.m.; February 21, 2015,
7 2:47 p.m. and 5:11 p.m.; and February 22, 2015, 11:57 a.m., 4:03 p.m., and 7:14
8 p.m.
9

10
11 23. Upon information and belief, Defendant's actions are in violation of
12 the Telephone Consumer Protection Act.

13 **DEFENDANT VIOLATED THE**
14 **TELEPHONE CONSUMER PROTECTION ACT**

15 24. Plaintiff incorporates the forgoing paragraphs as though the same were
16 set forth at length herein.
17

18 25. Defendant initiated multiple automated telephone calls to Plaintiff's
19 cellular telephone using a prerecorded voice and without his express prior consent.

20 26. Defendant initiated these automated calls to Plaintiff using an
21 automatic telephone dialing system.
22

23 27. Defendant's calls to Plaintiff were not made for emergency purposes.

24 28. Defendant's calls to Plaintiff, on and after January 16, 2015, were not
25 made with Plaintiff's prior express consent.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, BOB BROOKS, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: 09-04-15

KIMMEL & SILVERMAN, P.C.

By: /s/ Craig Thor Kimmel

CRAIG THOR KIMMEL

Attorney ID # 57100

Kimmel & Silverman, P.C.

30 E. Butler Pike

Ambler, PA 19002

Phone: (215) 540-8888

Fax: (877) 788-2864

Email: kimmel@creditlaw.com